



UNIVERSITY OF TORONTO  
FACULTY OF LAW

# PROPERTY LAW

Group B

Professor Larissa Katz

2016-17

STORAGE

KE  
618  
.K38  
2016  
c.1

BORA LASKIN LAW LIBRARY

AUG 16 2016

FACULTY OF LAW  
UNIVERSITY OF TORONTO



UNIVERSITY OF TORONTO  
FACULTY OF LAW

## **PROPERTY LAW**

### **Group B**

**Professor Larissa Katz**

**2016-17**



Digitized by the Internet Archive  
in 2017

<https://archive.org/details/propertylawgroup00katz>

## TABLE OF CONTENTS

<b>I. <u>The Concept of Ownership</u></b>	1
<b>A. The Right to Exclude</b>	1
<i>Jacque v. Steenberg Homes, Inc.</i>	1
<i>Harrison v. Carswell</i>	6
<i>Brownstone v. Geller</i>	14
<b>B. The Right to Use</b>	17
<i>Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc.</i>	17
<i>Sturges v. Bridgman</i>	21
<i>The Shelburne v. Crossan Corp.</i>	24
<i>Phillips v. Homfray</i>	27
<i>Dimond v. Lovell</i>	43
<b>C. “First in Time, Better in Right”</b>	67
<i>Kunstammlungen zu Weimar v. Elicofon</i>	67
<i>Bishopsgate Motor Finance Corporation Ltd v. Transport Brakes Ltd</i>	71
<i>United Trust Co. v. Dominion Stores Ltd</i>	72
<i>Lawrence v. Maple Trust Company</i>	104
<b>II. <u>Defining Boundaries</u></b>	120
<b>A. “Cujus Est Solum” Rule</b>	120
<i>Edwards v. Sims</i>	120
<i>Didow v. Alberta Power Ltd</i>	125
<i>Kingsbridge Development Inc. v. Hanson Needler Corp.</i>	132

<b>B. Fixtures and Accession.....</b>	<b>135</b>
Lionel D. Smith, <i>Property: The Law of Tracing</i> .....	135
<i>Diamond Neon (Manufacturing) Ltd. v. Toronto-Dominion Realty Co.</i> .....	140
<i>Ilford-Riverton Airways Ltd. v. Aero Trades (Western) Ltd.</i> .....	144
<b>C. Intermixture and Alteration.....</b>	<b>148</b>
<i>Jones v. De Marchant</i> .....	148
<i>Indian Oil Corporation v. Greenstone Shipping</i> .....	153
<b>D. Mistaken Improvement.....</b>	<b>164</b>
<i>Munro v. Willmott</i> .....	164
<i>Greenwood v. Bennett and Others</i> .....	168
<b>III. <u>Acquiring and Losing Ownership</u>.....</b>	<b>172</b>
<b>A. Possession and the Law of Capture.....</b>	<b>172</b>
<i>Pierson v. Post</i> .....	172
<i>Popov v. Hiyashi</i> .....	176
<b>B. Abandonment.....</b>	<b>186</b>
<i>Wicks Estate v. Harnett</i> .....	186
<i>Stewart v. Gustafson</i> .....	193
<b>C. Adverse Possession.....</b>	<b>197</b>
<i>Keefer v Arillotta</i> .....	197
<i>Masidon Investments Ltd. v. Ham</i> .....	203
<i>Teis v. Ancaster (Town)</i> .....	211

<b>IV. <u>Non-Ownership Rights</u></b>	220
<b>A. Possessory Rights</b>	220
<b>i) Bailments</b>	220
<i>Letourneau v. Otto Mobiles Edmonton (1984) Ltd</i>	220
<i>Punch v. Savoy's Jewellers Ltd</i>	230
The Winkfield	238
<b>ii) Finders' Rights</b>	243
<i>Armory v. Delamirie</i>	243
<i>Parker v. British Airways Board</i>	244
<i>Deaderick v. Oulds</i>	255
<i>Keron v Cashman</i>	257
<b>B. Non-Possessory Rights</b>	260
<b>i) Easements</b>	260
<i>Re Ellenborough Park</i>	260
<i>Phipps v. Pears</i>	272
<i>Wong v. Beaumont</i>	275
<i>Barton v. Raine</i>	279
<i>Laurie v. Winch</i>	285
<i>Chand and others v Linden Mews Ltd</i>	290
<b>ii) Restrictive Covenants</b>	295
<i>Tulk v. Moxhay</i>	295
<i>Austerberry v. Oldham</i>	296
<i>Berry v. Indian Park Assn</i>	298

<b>V. <u>Fragmented Ownership</u></b>	306
<i>Fatac Ltd. V. Commissioner of Inland Revenue</i>	306
<i>Merger Restaurants v. DME Foods Ltd</i>	311
<i>Southwark LBC v. Tanner</i>	317
<b>VI. <u>Concurrent and Successive Ownership</u></b>	323
<b>A. Co-Ownership</b>	323
<i>Leigh v. Dickeson</i>	323
<i>Mastron v. Cotton</i>	326
<i>Burgess v. Rawnsley</i>	329
<i>Frosch v. Dadd</i>	334
<b>B. Present and Future Interests</b>	341
<i>i) Life Estates</i>	341
<i>Savoy v. McEachern</i>	341
<i>Dent v. Dent</i>	344
<i>ii) Defeasible Fees</i>	348
<i>Lawson and Rudden, The Law of Property</i>	348
<i>McKeen Estate v. McKeen Estate</i>	350
<i>Re North Gower Township Public School and Todd</i>	362
<i>Thunder Bay Regional Hospital v McKeller Estate</i>	364
<i>iii) Rule Against Perpetuities</i>	368
<i>Scurry-Rainbow Oil (Sask.) Ltd. v. Taylor</i>	368
<b>VII. <u>What Can Be Owned?</u></b>	385
<b>A. Persons and Property</b>	385
<i>R. v. Bentham</i>	385



<b>B. Licenses and Qualifications</b>	389
<i>Saulnier v. Royal Bank of Canada</i>	389
<i>Caratun v. Caratun</i>	404
<b>C. Personality</b>	413
<i>Gould Estate v. Stoddart Publishing Co.</i>	413
<i>Midler v. Ford Motor Company</i>	419
<b>D. Information</b>	423
<i>International News Service v. The Associated Press</i>	423
<i>Victoria Park Racing and Recreation Grounds Co. Ltd. V. Taylor</i>	434
<i>Thunder Bay Regional Hospital v McKeller Estate</i>	446
<b>VIII. <u>State-Owner Relations</u></b>	455
<b>A. Expropriations</b>	455
<i>i) United States</i>	455
<i>Kelo v. City of New London</i>	455
<i>Penn Central Transportation Company v. City of New York</i>	471
<i>ii) Canada</i>	493
<i>Manitoba Fisheries Ltd. v. Canada</i>	493
<i>Antrim Truck Centre v. Ontario</i>	501
<b>B. Aboriginal Title</b>	512
<i>Delgamuukw v. British Columbia</i>	512
<i>Tsilhqot'n Nation v. British Columbia</i>	532

